

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BRANDON LANDRUM,

Plaintiff,

**v.
TFM**

**DELTA INTERNATIONAL
MACHINERY CORPORATION,
LANDRUM INSTALLATION, et al.,**

Defendants.

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Case No.:1:08-cv-00140-WKW-

**PLAINTIFF'S RESPONSE TO DEFENDANT DELTA INTERNATIONAL
MACHINERY CORPORATION'S MOTION TO STRIKE PLAINTIFF'S FIRST
SET OF INTERROGATORIES**

Comes Now the Plaintiff, Brandon Landrum, in the above matter, and in response to Defendant Delta International Machinery Corporation's Motion to Strike Plaintiff's First Set of Interrogatives, says as follows:

Delta has filed its Motion to Strike Plaintiff's First Set of Interrogatories arguing that these discovery requests are improper under Rule 29(d) because the parties herein have not conferred as required by Rule 26(f).

As this court is aware, this action was originally filed in Geneva County, Alabama State Court and removed, improperly, by Defendant Delta. Plaintiff currently has a pending Motion to Remand before this Court.

The subject interrogatories and discovery that are the subject of Defendant's Motion to Strike were filed contemporaneously with the original Complain in State Court. As this court is aware, given that Defendant Delta filed its Notice of Removal and then

contemporaneously filed the subject Motion to Strike, the parties in no way could have had the opportunity to confer as required by Rule 26(f) prior to Defendant's filing of the subject Motion to Strike.

Additionally, Plaintiff's Motion to Remand is due to be granted, and the discovery which forms the Defendant's Motion to Strike is proper in State Court.

Finally, notwithstanding the foregoing, the parties have reached an agreement whereby the Defendant Delta has agreed to withdraw their Motion to Strike and Defendant Delta's time to respond to Plaintiff's Interrogatories will be tolled until such time that this Court has ruled upon the pending Motion to Remand filed by the Plaintiff in this action.

Respectfully submitted this the 19th day of March, 2008.

**MORRIS, CARY, ANDREWS,
TALMADGE & DRIGGERS, LLC**

/s/ S. Mark Andrews

S. Mark Andrews (AND063)

Attorney for Plaintiff

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Dothan, Alabama 36302

(334) 792-1420

CERTIFICATE OF SERVICE

I hereby certify that I on this, the 19th day of March, 2008, mailed a copy of the foregoing document, properly addressed and postage prepaid to the following:

Joseph P.H. Babington
Annie J. Dike
Helmsing, Leach, Herlong,
Newman & Rouse
P.O. Box 2767
Mobile, AL 36652

/s/ S. Mark Andrews

S. Mark Andrews (AND063)